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CHAPTER 4 ***Member Supervision***

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MEMBER SERVICE AGREEMENTS

As described in the AmeriCorps Provisions, Programs are required to have members sign a member service agreement, or contract, that, at a minimum, stipulates the following:

- 1) Member position description;
- 2) The minimum number of service hours (as required by statute) and other requirements (as developed by the grantee) necessary to successfully complete the term of service and to be eligible for the education award;
- 3) The amount of the education award being offered for successful completion of the terms of service in which the individual is enrolling;
- 4) Standards of conduct, as developed by the grantee or subgrantee;
- 5) List of prohibited activities, including those specified in the regulations at 45 CFR 2520.65 (see paragraph 3, below);
- 6) Requirements under the Drug-Free Workplace Act (41 U.S.C. 701 *et seq.*);
- 7) Suspension and termination rules;
- 8) The specific circumstances under which a member may be released for cause;
- 9) Grievance procedures; and
- 10) Other requirements as established by the grantee.

Programs should ensure that the service agreement is signed before commencement of service so that members are fully aware of their rights and responsibilities.

The Utah Commission on Service and Volunteerism requires programs to use the “Member Service Agreement” attached, which includes all the above listed components and is a form in IPT.

Member Service Agreement file:

- Sample Member Service Agreement

MEMBER ACTIVITIES

Prohibited Activities

The Corporation acknowledges that religious and political activities play a positive role in healthy communities, that religion and politics are defining characteristics of many community organizations (faith-based and secular), and that religious and political belief and action are central to many AmeriCorps members lives.

However, it is important that AmeriCorps programs and their members do not appear to be taking sides religiously or politically. Consequently, a number of limitations on the activities that AmeriCorps programs can support and in which members can engage while earning service hours, or when otherwise, representing AmeriCorps must be imposed. AmeriCorps members are free to pursue these activities on their own initiative, on non-AmeriCorps time, and using non-AmeriCorps funds. The AmeriCorps logo should not be worn by members when participating in prohibited activities.

While charging time to the AmeriCorps program, members accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program or the Corporation, staff and members may not engage in the following activities, and the grantee may not use grant funds to support the following activities (see 45 CFR § 2520.65):

- a. Attempting to influence legislation.
- b. Organizing or engaging in protests, petitions, boycotts, or strikes.
- c. Assisting, promoting or deterring union organizing.
- d. Impairing existing contracts for services or collective bargaining agreements.
- e. Engaging in partisan political activities or other activities designed to influence the outcome of an election to any public office.
- f. Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials.
- g. Engaging in religious instruction; conducting worship services; providing instruction as part of a program that includes mandatory religious instruction or worship; constructing or operating facilities devoted to religious instruction or worship; maintaining facilities primarily or inherently devoted to religious instruction or worship; or engaging in any form of religious proselytization.
- h. Providing a direct benefit to:
 - i. A for-profit entity;
 - ii. A labor union;
 - iii. A partisan political organization;
 - iv. An organization engaged in the religious activities described in the preceding sub-clause, unless grant funds are not used to support the religious activities; or
 - v. A nonprofit entity that fails to comply with the restrictions contained in section 501(c)(3) of U.S. Code Title 26.
- i. Voter registration drives by AmeriCorps members is an unacceptable service activity. In addition, Corporation funds may not be used to conduct a voter registration drive.
- j. Providing abortion services or referrals for receipt of such services; and
- k. Such other activities as the Corporation may prohibit.

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AmeriCorps members may not engage in the above activities directly or indirectly by recruiting, training, or managing others for the primary purpose of engaging in one of the activities listed above. Individuals may exercise their rights as private citizens and may participate in the activities listed above on their initiative, on non-AmeriCorps time, and using non-Corporation funds. Individuals should not wear the AmeriCorps logo while doing so.

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Allowable Activities

After reading the list of prohibited activities there may still be questions about what kind of service work can be credited to AmeriCorps Education Awards hours.

The most important piece of information to relay to the members is that at least 80% of their time must be spent doing direct service, of which no more than 10% may be fundraising and the other 20% can be credited to education and/or training that they receive that relates to their work in AmeriCorps.

Direct service is work that addresses human need, the environment, public safety, and/or education in one form or another. It is working directly with people to make change, or doing work that is involved in making that direct change. It can be outreach, fundraising, case management, training, teaching, tutoring, mediating, cleaning, counseling, recruiting volunteers, catching up on paperwork related to clients, preparing for class, coaching, listening, cooking, serving, providing health care, food, clothing, etc. Direct service hours should constitute 80% or more of an AmeriCorps member's total hours served.

Education and/or training, hours are only applicable when they reflect the AmeriCorps service that the member credits to the education award he or she will receive. Any on-the job training that refers to direct service would be part of this category. All orientations, including the AmeriCorps orientation, would be included, as well as any state or regional trainings, seminars, or workshops pertaining to issues related to direct service. Examples would be conflict resolution seminars, teacher development days, team-building exercises or a class on training techniques. Only 20% of the entire member's credited service hours can be dedicated to education and training, even if more hours have been spent in this area.

As part of their service, members may raise funds directly in support of service activities that meet local, environmental, educational, public safety, homeland security, or other human needs. A member may spend no more than 10% of his or her term of service performing fundraising activities.

Examples of fundraising activities that members may perform include, but are not limited to the following:

- a. Seeking donations for books from companies and individuals for their AmeriCorps program in which volunteers tutor children to read;

MEMBER ACTIVITIES

- b. Writing a grant proposal to a foundation to secure resources to support the training of volunteers in their AmeriCorps program;
- c. Securing supplies and equipment from the community to enable volunteers to help build houses for low-income individuals as part of their AmeriCorps program;
- d. Securing financial resources from the community to assist a faith-based organization in launching or expanding their AmeriCorps program that provides social services to the members of the community and is delivered, in whole or in part, through the members of the faith-based organization; or
- e. Seeking donations from alumni of their AmeriCorps program for specific service projects being performed by current members.

All AmeriCorps service activities must take place in the state of Utah only. Any activities that are not applicable to a member's education award hours are listed on the Prohibited Activities sheet. The hours that a member may spend doing those activities should not be recorded. For instance, if a member is teaching six classes a day and two of those are religion, only the four other classes (let's say in math, English, history and science) would be acceptable to record on her/his weekly tracking tool, and ultimately on her/his quarterly report.

ISP

In addition to the above listed activities for direct service, a program has the option to allow members to participate in an **Individual Service Project (ISP)** during their term of service. The ISP should involve a minimum of 80 hours and can be counted toward the members direct service requirement. Members are encouraged to find a different area of need for their ISP service than the one the program currently focuses on. The service should be provided through an organization and not just neighbor to neighbor. All applicable prohibited member activities still apply to the ISP service and it must be done within the state of Utah. Approval from the program director is required and host site approval is recommended. The goal of the ISP is to expand the member's exposure to needs within their communities, with the hope that they will continue to be engaged after their term of service. The UCSV recommends that programs participate in the ISP option.

GRIEVANCE PROCEDURE/DRUG FREE WORKPLACE

The Utah Commission on Service and Volunteerism has the following requirements for Grievance Procedures and Drug-Free Workplace compliance.

Grievance Procedure

All programs must establish a grievance procedure for members who believe that they have been unfairly released from the program and for other grievances filed by members or other interested parties. This grievance procedure should be attached to the AmeriCorps member's contract. The procedure must include an opportunity for a hearing and binding arbitration within statutory deadlines.

To ensure all AmeriCorps programs are in compliance with federal regulations regarding grievance procedures, member files will be reviewed during monitoring site visits to ensure members have signed a grievance policy. Grievance procedures will be submitted at the beginning of the program year prior to contracting, and will be reviewed for quality and compliance using the Grievance Procedure Component list. Programs will be notified in writing of any required changes and given an appropriate time frame to complete those revisions.

Additionally, the Commission encourages programs to establish an alternative dispute resolution procedure, such as mediation. While a member is going through the grievance procedure, be sure to make it very clear what stage they are in, what the time-line is, and what the next steps are (i.e. whether they are in a mediation, grievance hearing or binding arbitration).

Grievance Procedure Components-

Members are required to read and sign either a copy of the grievance procedures or a copy of a contract containing the following grievance procedures

- Grievance filed within one year of alleged occurrence
- Grievance hearing within 30 calendar days of filing a grievance
- Decision made within 60 calendar days of filing a grievance
- Hearing by person not involved in previous decisions on the issue
- Grievant can request binding arbitration if decision is adverse to grievant or if decision is not reached within 60 calendar days
- Binding arbitration hearing is held within 45 days after request for arbitration or within 30 days after CEO appoints arbitrator
- Within 30 days of the binding arbitration hearing, there is a decision

NOTE: Programs are required to contact the Commission if a member starts a grievance procedure process. The written grievance should be sent to the Commission and any correspondence with the member should also be included.

GRIEVANCE PROCEDURE/DRUG FREE WORKPLACE

Drug-free Workplace Requirements

In accordance with the AmeriCorps Provisions, programs are required to give notice about the Drug-Free Workplace Act to members and to conduct a drug-free awareness program.

Persons other than individuals

No person, other than an individual, shall receive a grant from any Federal agency unless such person agrees to provide a drug-free workplace by—

- 1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- 2) establishing a drug-free awareness program to inform employees about—
 - a) the dangers of drug abuse in the workplace;
 - b) the grantee's policy of maintaining a drug-free workplace;
 - c) any available drug counseling, rehabilitation, and employee assistance programs; and
 - d) the penalties that may be imposed upon employees for drug abuse violations;
- 3) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by subparagraph (A);
- 4) notifying the employee in the statement required by subparagraph (A), that as a condition of employment in such grant, the employee will—
 - a) abide by the terms of the statement; and
 - b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;
- 5) notifying the granting agency within 10 days after receiving notice of a conviction under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;
- 6) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 703 of this title; and
- 7) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

Individuals

No Federal agency shall make a grant to any individual unless such individual agrees as a condition of such grant that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in conducting any activity with such grant.

If a member is arrested for or convicted of a drug offense, he or she must notify the Program Director in writing within five (5) days. Appropriate action must be taken including suspension and referral to a drug rehabilitation program, or release for cause consistent with the Corporation's rule on termination and suspension of service.

*The conviction **must be reported to the Commission, in writing, within ten (10) days.** The Commission will then notify the Corporation in writing.*

MEMBER TRACKING

The Utah Commission on Service and Volunteerism has established the Utah AmeriCorps Tracking System as the official system of record for all AmeriCorps service forms. This tracking system hosts the following forms:

- Enrollment and Eligibility Verification
- Member Service Agreement
- Monthly Progress and Demographic Reporting
- Service Hour Record
- Weekly Service Hour Record
- Exit Form

Beginning January 1, 2013 these forms will be required for all new members enrolling in Utah AmeriCorps programs. The program may select either the Monthly Service Hour Record or the Weekly Service Hour Record to track their member time. Further instructions for the use of the AmeriCorps Tracking System can be found in the Attachment “AmeriCorps Tracking System User Guides”.

The Commission will conduct random reviews of member service hour records. If problems are found during the initial review such as inconsistent calculations, unsigned service hour records, prohibited activities, etc., it will be considered a compliance issue and may require a complete review of all member service hour records.

The review of service hour records will include the following:

- Are all service hour records signed and dated by both the member and site supervisor?
- Are the member service activities listed on service hour records in line with the approved objectives and are not prohibited activities?
- If descriptions are provided, would a reasonable person understand what activities are being performed by the member, based on those descriptions, and would that person be able to acknowledge that no prohibited activities occurred?
- Are members on target to attain their intended number of service hours?
- Do the service hour records clearly track the service activities to ensure adherence to the 20% rule relating to training?
- Do the service hour records clearly track the service activities to ensure adherence to the 10% rule relating to fundraising?

Service hour record file:

- Sample Member Service Hour Record
- AmeriCorps Tracking System User Guides

DEDUCTION TO LIVING ALLOWANCE

Programs occasionally request the ability to deduct amounts from living allowances for member absences and other purposes. Programs may make deductions to living allowances or other payments made to AmeriCorps members; however, programs may not deduct any portion of the living allowance paid to the member by the Corporation.

Before making any deductions, programs are advised to consider the implications related to the treatment of employment laws, including those laws addressing minimum wage and unemployment compensation. Further, programs that deduct amounts from member living allowances may be required to increase their match funds as a result.

For more information, please refer to the AmeriCorps Provisions.

Wage Garnishments

The Corporation has concluded that the federal portion of the living allowance is not subject to involuntary garnishment because it is protected under the doctrine of sovereign immunity. The term, “sovereign immunity”, means that the United States, as the sovereign, has to consent before any federal funds can be garnished. It has not done so in the case of the federal portion of a member’s living allowance. In addition, the federal portion of programs’ staff salaries may not be subject to involuntary garnishment.

The non-federal portion/program match of living allowances and staff salaries may be garnished, in accordance with state law.

PUBLIC ASSISTANCE PROGRAMS

Food Stamps

A member's food stamps benefits are not affected because a member receives the AmeriCorps living allowance. This means that a member's benefits should not be decreased, increased, or terminated because he or she receives the living allowance. This is a federal rule and is the same in all states.

Public Housing

AmeriCorps members' benefits do not affect a member's eligibility for federal, need-based housing assistance, such as Section 8 housing and other federally subsidized housing. This means that the living stipend cannot be taken into consideration when a member applies for or if a member's eligibility for public housing is being re-examined. This is a federal rule and is the same in all states.

Unemployment Benefits

AmeriCorps members are **not entitled** to unemployment benefits. The Corporation for National and Community Service has interpreted federal legislation to mean that there is no employer/employee relationship between members and programs. Utah has chosen to agree with this interpretation and denies unemployment benefits to members; hence, programs are not required to pay unemployment taxes.

Medicaid

The Corporation for National and Community Service (CNCS) 2008-2009 AmeriCorps Provisions, state that programs must provide health care coverage to all full-time AmeriCorps members. In addition, the U.S. Department of Health and Human Services (DHHS) recognizes that AmeriCorps members, who will receive AmeriCorps health care coverage, also may be receiving Medicaid coverage. DHHS has stated that AmeriCorps Medicaid recipients are not waived from AmeriCorps health care coverage.

Because Medicaid "wraps around" other available health care coverage, Medicaid will only pick up the costs that are not covered under the primary AmeriCorps policy. Medicaid is always a secondary form of coverage when there is another health care policy in place.

Members who remain on Temporary Assistance to Needy Families (TANF) will continue to receive Medicaid for their dependents. Members who lose TANF due to the living allowance may still qualify for Medicaid or Family Health Plan, and may usually continue to receive extended Medicaid coverage for their dependents for up to one year.

PUBLIC ASSISTANCE PROGRAMS

Supplemental Security Income

Supplemental Security Income (SSI) is a Federal program that provides a monthly cash benefit to low-income individuals who are aged, blind, or who have a disability. In the past, receiving an AmeriCorps living allowance could disqualify an individual from eligibility. Under the Heroes Earnings and Relief Tax Act of 2008, the Social Security Administration will ignore an individual's receipt of AmeriCorps benefits for purposes of SSI eligibility. The Heart Act excludes "any benefit (whether cash or in-kind)" and so covers the living allowance, health insurance, child care, and the education award (and related interest payments).

Additionally, SSI recipients who serve in AmeriCorps State Program automatically qualify for the Student Child Earned Income Exclusion if they meet applicable age and marital status requirements.

SSI recipients who are (1) under the age of 22 and (2) neither married nor the head of a household are eligible for the student earned income exclusion, which excludes from countable earned income \$1,290 per month and up to \$5,200 per year (amounts as of January 1, 2001). This exclusion may be combined with existing SSI work incentives and other income disregard rules, which should encourage more young people with disabilities to participate in AmeriCorps State Programs.

Any portion of an education award used by an SSI recipient to pay for tuition, fees, and other necessary education expenses (not including room and board, or repaying student loans) will not count as income. Any portion of the education award that is not used for tuition, fees, or other necessary educational expenses counts as income in the month that it is used. For general questions about SSI or the terms used in this answer, go to <http://www.socialsecurity.gov/ssi/index.htm>

Social Security Disability Insurance

Because Social Security Disability Insurance SSDI is an insurance program, SSDI benefits will not be lost on the basis of earned income. However, it's possible that participation in AmeriCorps could result in the Social Security Administration reviewing of its determination of a disability. Members may be able to take advantage of SSA's Work Incentive options to keep SSDI eligibility intact while participating in AmeriCorps.